

Remarks

Claims 1 to 19 are canceled. Claims 20 to 36 are pending.

Claims 20 and 21 are currently amended. Claims 26 to 36 are new. Support for the amendments and for the new claims can be found in the specification and the drawings as originally filed, for example in Figures 10 to 15 and pages 20 to 24.

Election/Restrictions

The Examiner indicates that restriction is required under 35 U.S.C. 121 and 372.

Applicant affirms the provisional election of claims 20 to 25, which was made during a telephone conversation with the Examiner on 11/20/2008. Claims 17 to 19 remain withdrawn from consideration. Claims 1 to 16 are canceled.

It is respectfully submitted that this election satisfies the requirement under 35 U.S.C. 121 and 372.

Claim Rejections – 35 USC § 102

The Examiner rejects claim 20 under 35 USC § 102(b) as being anticipated by Boyd (US 2002/0185423).

In the rejection, with regard to the two elements "an outer container" and "an item container" in claim 20, the Examiner simply stated "(0011, 0069)" at the end of the first element of claim 20, and "(0011)" at the end of the second element of claim 20. Since the reference numerals in Boyd start at 60 and are even numbered, it is presumed that the Examiner was referring to paragraph numbers in Boyd, though the paragraphs are not numbered therein.

Counting the paragraphs in Boyd, paragraph 0011 of Boyd is likely:

The unit 60 includes a base 62, a reservoir 64 and a filter cartridge 66. The reservoir 64 is filled with water and placed on the base 62. The water in the reservoir 64 circulates through the base 62 and filter cartridge 66 to become ozonated, and then flows back into the reservoir 64. After this "charging" step is complete, the reservoir can be removed from the base 62 and used to apply the ozonated water in any manner desirable.

Accordingly, it is presumed that the Examiner is stating that "an item container" as recited in claim 20 is anticipated by paragraph 0011 of Boyd. Applicant disagrees. Boyd does not teach an item holder for removable mating with the outer container, for holding items in the container for sanitization, as recited in currently amended claim 20. Boyd only teaches a reservoir (i.e. an outer container) and does not teach an item holder removable from the outer container.

Furthermore, even Applicant directs the Examiner to his later rejection under 35 USC § 103(a), in which he states that Boyd "does not disclose having an item holder for holding items in the container for sanitization", as recited in currently amended claim 20.

Therefore, at least because for the reasons provided above, Boyd cannot anticipate currently amended claim 20, and withdrawal of the rejection under 35 USC § 102(b) is respectfully requested.

Claim Rejections – 35 USC § 103

The Examiner rejects claims 21 to 25 under 35 USC § 103(a) as being anticipated by Boyd (US 2002/0185423) as applied to claim 20, and further in view of Kasting JR. (US 5,520,893, hereinafter "Kasting").

Currently amended claim 21 recites a container having a fluid transfer device and having a removable item holder for holding items in the container for sanitization, the removable item holder being distinct from, and for removable mating with, the container.

The Examiner correctly states that Boyd does not teach an item holder as recited in original claim 21. The Examiner turns to Kasting to allegedly provide the missing features of claim 21, stating that Kasting teaches an instrument sterilization pan to hold items to be sanitized. Applicant respectfully submits that the combination of Boyd and Kasting does not teach or suggest a container having a fluid transfer device and having a removable item holder for holding items in the container for sanitization, the removable item holder being distinct from, and for removable mating with, the container.

Kasting teaches an apparatus with safety means for sterilizing articles with ozone. In column 3, lines 50-55, Kasting recites, as part of a portable sterilizing unit 10, a housing 12 including "a chamber or instrument sterilizing pan 14 through which water and dissolved ozone are circulated and in which medical instruments are ozonized". Therefore, the sterilizing pan 14 in Kasting is clearly equivalent to the container of the present application.

The sterilizing pan 14, or container, of Kasting is the same component in which items are ozonized. In contrast, in currently amended claim 21 of the present application, a removable item holder is provided for holding items in the container for sanitization. *The removable item container is distinct from, and for removable mating with, the container.* While Kasting states in column 4, lines 1-9, that the pan could be removable from the housing, this is equivalent to the container being removable from the base, and has no functional relationship whatsoever to an additional item holder that is removably mated with the container, as recited in currently amended claim 21.

Neither Boyd nor Kasting discloses or even contemplates an item holder distinct from the container in which items are sanitized. Accordingly, a combination of Boyd and Kasting cannot teach or suggest a container having a removable item holder for holding items in the container for sanitization, the removable item holder being distinct from, and for removable mating with, the container, as recited in currently amended claim 21.

Therefore, at least because for the reasons provided above, amended claim 21 complies with 35 USC § 103(a). Claims 22 to 25 are all ultimately dependent on amended claim 21 and include all of its features and limitations. Those dependent claims also comply with 35 USC §

103(a), at least for the reasons provided above. Withdrawal of the rejection under 35 USC § 103(a) is respectfully requested.

Additionally, claims 26 and 31 recite that the item holder keeps the held items from having direct contact with the bottom of the container. Claim 32 specifies that, in the case of an item sanitizing system, the item holder keeps the held items from interfering with a flow of fluid into and out of the container via the fluid transfer device. Support for these features is found, for example, in paragraph [0097].

It is respectfully submitted that neither Boyd nor Kasting teaches or suggests the features in claims 26, 31 or 32. In fact, the Boyd and Kasting references teach away from these features because in each of the two references, the container is where the items are directly placed, thereby necessarily encouraging direct contact of the items with the bottom of the container during sanitization. Moreover, neither Boyd nor Kasting teaches a separate item holder.

Claims 27 to 30 and 33 to 36 recite additional features of particular embodiments of the item holder of the present application, support for which is found, for example, on pages 20 to 24 and illustrated in Figures 10 to 15.

It is respectfully submitted that neither Boyd nor Kasting teaches or suggests the features in claims 27 to 30 and 33 to 36. Since neither Boyd nor Kasting teaches a separate item holder, they cannot teach or suggest the features of the embodiments described in claims 27 to 30 and 33 to 36.

Furthermore, dependent claims 26 to 36 are ultimately dependent on amended claim 20 or 21, and include all of the features and limitations described therein, and are also therefore patentable for at least that reason.

The Applicant submits that the present application is now in condition for allowance and looks forward to receiving a Notice of Allowability. Assuming that claim 1 is found allowable, the Applicant understands that the previously withdrawn claims 5 and 22 will be reconsidered.

The Examiner is invited to contact the undersigned by telephone to discuss any steps that may be taken to move this application to allowance.

The Commissioner is hereby authorized to charge any additional fees, and credit any over payments to Deposit Account No. 501593, in the name of Borden Ladner Gervais LLP.

Respectfully submitted,

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